

FILE NUMBER: H.F. 2398 **DATE:** April 2, 2012
Version: Fourth engrossment
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Subject: Omnibus agriculture policy bill
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Overview

This bill proposes a number of changes to agriculture and food safety laws. The Minnesota Department of Agriculture (MDA) requested most of the provisions. This bill would affect MDA's legislative reporting responsibilities; grain buyers; firewood distributors; local governments collecting waste pesticides; food purveyors including grocery stores, bakeries, convenience stores, meat or poultry processors, egg handlers, and food product manufacturers; agricultural pesticide dealers; nursery stock growers and retailers; and others. It would also establish a new Dairy Research, Teaching, and Consumer Education Authority to identify and acquire a site for a new dairy education facility.

Article 1: Policy and Technical Provisions

Overview

This article would change various aspects of agriculture policy. All food safety provisions are in article 2. This article proposes a new Dairy Research, Teaching, and Consumer Education Authority.

- 1 Duties.** Eliminates an existing MDA duty to report information and policy recommendations to the legislature each biennium concerning sustainable agriculture, economic conditions of agricultural producers, the status of soil and water resources utilized by agricultural producers, the magnitude of off-farm inputs used, and the amount of nonrenewable resources used by Minnesota farmers.
- 2 Integrated pest management.** Eliminates an existing MDA duty to provide an integrated pest management report to the legislature each biennium, in conjunction with the report eliminated in section 1 above.
- 3 Disposal site requirement.** Allows MDA to provide an opportunity for pesticide users to dispose of nonagricultural waste pesticide in one location - rather than in each individual county - for a group of counties participating in a joint powers agreement or a contract for household hazardous waste disposal.

- 4** **Agricultural pesticide sales invoices.** Provides a one-year exemption from the requirement that pesticide dealers itemize the state gross sales fee on the invoice if the dealer can demonstrate to MDA that this requirement is an extreme business hardship. If MDA grants an exemption, the dealer must instead place a general statement on the invoice stating that the sales fee was assessed and paid.
- 5** **Infested.** Modifies the definition of "infested" for the purposes of MDA's invasive species and export certification activities.
- 6** **Supplemental, additional, or other certificates or permits.** Allows MDA to inspect, sample, or certify a plant treatment process.
- 7** **Misuse of a certificate or permit.** Prohibits altering, counterfeiting, obtaining, or improperly using a plant certificate or permit. Prohibits transferring an MDA-issued plant certificate, permit, or official letter to another location or person.
- 8** **Infested.** Modifies the definition of "infested" for the purposes of MDA's regulation of nursery stock growers and retailers.
- 9** **Nonhardy.** Defines the term "nonhardy" for the purposes of MDA's regulation of nursery stock growers and retailers.
- 10** **Storage of nursery stock.** Requires a person who sells balled and burlapped nursery stock to keep the stock in an MDA-approved material. The material must cover and protect the ball of earth and must be moist at all times.
- 11** **Labeling and advertising of nursery stock.** Requires all nonhardy nursery stock to be labeled as such. Requires a person who collects nursery stock from the wild to have the wild stock inspected by the MDA. The person also must label the stock accordingly. If the person grows the wild stock for two years in a nursery, the label is not required.
- 12 to 24** **Inspection and enforcement -- Wholesale Produce Dealer, Grain Buyer/Grain Storage, and Warehouse laws.** These sections extend MDA's suite of nursery and plant inspection and enforcement powers to include the department's Wholesale Produce Dealer, Grain Buyer/Grain Storage, and Warehouse oversight responsibilities. MDA employees could enter sites, inspect and sample products, issue commissioner's orders, and pursue administrative and criminal penalties for failure to follow the Wholesale Produce Dealer, Grain Buyer/Grain Storage, or Warehouse laws. MDA employees could inspect and sample grain, household goods, general merchandise, and produce.
- 25** **Vegetable seeds.** Allows a person who prepares vegetable seeds for use in home gardens to state on the label the number of seeds in the container or the net weight of the seeds, regardless of the number of seeds in the container.
- 26** **Flower seeds.** Allows a person who prepares flower and wildflower seeds for use in home gardens to state on the label the number of seeds in the container or the net weight of the seeds, regardless of the number of seeds in the container.
- 27** **Commercial feed.** Modifies the definition of commercial feed to exempt feed produced and used by a commercial feed distributor from the annual fertilizer inspection fee.
- Effective date:** This section is effective retroactive to January 1, 2012, and applies to fertilizer inspection fees collected by MDA for calendar year 2012 and beyond.
- 28** **Analysis; evidence.** Technical changes to the terminology used to describe the food safety duties of MDA's laboratory personnel.

- 29 Commissioner duties.** Modifies MDA's duty to report to the legislature on the status of organic agriculture. MDA would no longer submit the report biennially; instead MDA would report every five years. Changes language that specifies the contents of MDA's organic agriculture report.
- 30 Organization.** Establishes a new Dairy Research, Teaching, and Consumer Education Authority as a public corporation. Specifies which entities must be represented on the board of directors. Requires the board to meet at least four times a year; all board meetings are subject to the state's open meeting law. Establishes a conflict of interest policy and requires directors and officers to file statements of economic interest with the Campaign Finance and Disclosure Board.
- 31 Powers.** Endows the authority with many of the powers granted to private corporations, except the powers to locate in another state, issue and trade securities, make loans, issue advances to directors and employees, and operate under an assumed name. Authorizes the authority to work with a Minnesota nonprofit corporation to design, develop, and operate a dairy research, teaching, and consumer education facility. The site for the facility must accommodate specified facilities and activities, including a milking parlor and classroom space. Allows the authority to accept contributions to support the facility.
- 32 Employees.** Authorizes the authority to hire employees. A person employed by a contractor or lessee is not a state employee and may not participate in state employee benefit programs. However, a University of Minnesota or Minnesota State Colleges and Universities system employee or faculty member would not lose their employment status solely because they work at the dairy research, teaching, and consumer education facility.
- 33 Accounts; audits.** Authorizes the authority to establish necessary funds and accounts. Requires the authority to pay for an annual financial audit by the state auditor.
- 34 Annual report.** Requires the authority to report annually to the legislative agriculture committees and the governor.
- 35 Expiration.** The authority would expire in five years if it has not acquired a site for the new facility.
- 36 Quarantine zones.** Modifies existing limits on Board of Animal Health (BAH) quarantine zones. States that a requirement that zones be as small as possible applies only to quarantine zones that restrict livestock movement. Eliminates a three-mile-radius limit on zone size.
- 37 Restriction on movement out of quarantine zones.** Allows BAH to issue orders restricting the movement of persons, machinery, and other personal property off of a specific quarantined premise, rather than out of a larger quarantine zone.
- 38 Report.** Modifies mandatory MDA reporting to the legislature about the Agricultural Land Preservation Program. MDA would report biennially, instead of annually and would deliver the report in March instead of January.
- 39 Activities authorized.** Provides that cost-share grants for the installation of biofuel blender pumps are an eligible use of money appropriated to MDA for the Agricultural Growth, Research, and Innovation Program.
- 40 Sunset.** Extends the sunset date for the Agricultural Growth, Research, and Innovation Program by two years to June 30, 2015.
- 41 Treatment of secured or guaranteed loans.** States that loans secured or otherwise backed by MDA are not subject to statutory limits on the total liabilities of a participating bank.
- 42 Public grain warehouse operator.** Expands the definition of "public grain warehouse operator" for

the purposes of MDA's grain buyer licensing and bonding requirements.

- 43 Licenses.** Eliminates existing grain buyer license categories and MDA's authority to maintain information on grain buyers by category.
- 44 Bond.** Requires MDA to base a licensed grain buyer's bond amount on a gross annual grain purchase report submitted by the buyer instead of the buyer's most recent financial statement. Bonds must be continuous until cancelled with 90 days written notice by the surety company to the licensee and MDA.
- 45 Defaults; violations.** Eliminates detailed enforcement and appeal procedures for grain buyer license violations and replaces them with a general statement that it is a violation of the law if MDA finds-after investigation-that a complaint is valid or the person has violated the law.
- 46 Bond.** Removes a reference to "grain bank operator" from the grain buyer law's definition of "bond." The repealer section of this article would eliminate chapter 236, Grain Banks.
- 47 Depositor.** Removes a reference to "grain bank" from the grain buyer law's definition of "depositor." The repealer section of this article would eliminate chapter 236, Grain Banks.
- 48 Public grain warehouse operator.** Expands the definition of "public grain warehouse operator" for the purposes of MDA's grain storage licensing and bonding requirements.
- 49 Fees; grain buyers and storage account.** Renames a grain storage inspection as an "examination."
- 50 Bonding.** Modifies the procedure for determining the size of the bond that a public grain warehouse operator must file with MDA. Bond size would be based on annual average storage liability for a grain warehouse.
- 51 Statement of grain in storage; reports.** Relaxes reporting requirements for public grain warehouse operators from monthly reports to annual reports. If an operator has already reached the maximum bond level, the operator need not file the annual report.
- 52 Bond disbursement.** Eliminates language specifying the terms of "condition one" and "condition two" bonds required of grain warehouse operators.
- 53 Scale tickets.** Specifies additional items that must be on a scale ticket issued by a licensed grain warehouse operator.
- 54 Delivery of grain.** Requires disputes between grain owners and warehouse operators to be resolved by sending a grain sample to a grain inspector authorized by the United States Department of Agriculture instead of MDA.
- 55 Schedule of examination.** Replaces the terms "inspection" and "audit" in this section of the Grain Storage Act with the term "examination."
- 56 Financial reports.** States that a licensed grain storage facility must give MDA an audited financial report only when MDA requests a copy.
- 57 Sale from bulk.** Requires all bulk firewood sold or distributed in the state to include delivery ticket information regarding the harvest location by county, counties, or state.
- 58 Information required with package.** Requires all packaged firewood sold or distributed in the state to include label information regarding the harvest location by county, counties, or state.
- 59 Exceptions.** Extends existing exemptions for specific industries from the state's biodiesel fuel mandate and creates a new exemption for Coast Guard ships and the following ships inspected by the

Coast Guard: freight vessels, steam vessels, tank vessels, towing vessels, and Great Lakes barges.

- 60** **Extension of commissioner's order.** Extends until March 31, 2015, the existing biodiesel fuel mandate exception for number 1 diesel fuel sold or offered for sale during cold-weather months.
- 61** **Agriculture.** Expands eligibility for a 2010 Southern Minnesota disaster recovery appropriation to include farmers and their families located in any rural disaster area in the state, as declared by FEMA or USDA, from the date of original enactment.
- Effective date: This section is effective retroactive to enactment of the 2010 Southern Minnesota Flood Relief Act.
- 62** **Effective date.** Provides that a law passed during the 2011 regular session and signed by the governor on April 15, 2011, became effective on April 16. The law allows the burial of certain concrete and rebar materials on farmland without a pollution-control permit.
- 63** **Steele County; CIP bonding authority.** Authorizes Steele County to include up to \$650,000 for county fair buildings in its capital improvement plan (CIP).
- 64** **Wadena County; CIP bonding authority.** Authorizes Wadena County to include up to \$1,000,000 for county fair buildings in its capital improvement plan.
- 65** **Repealer.** Repeals laws that do the following:
- Provide for MDA regulation and oversight of grain inspection, weighing, sampling, and analysis (all sections of ch. 17B).
 - Providing BAH authority to issue rules to control brucellosis in cattle (§ 35.243) and pseudorabies in swine (§ 35.255), investigate a suspected rabies infection (§ 35.67), and enter an establishment to sample milk or cream (§ 35.72).
 - Provide penalties for Grain Buyer Act violations (§§ 223.16 and 223.18).
 - Provide enforcement procedures and penalties for violations of the Grain Storage Act and allow MDA to sample, inspect, and grade grain at grain warehouses in order to certify that the warehouse meets certain standards (§§ 232.21, 232.24 and 232.25).
 - Govern MDA regulation and oversight of Public Terminal Grain Warehouses (all sections of chapter 233); Grain Storage on Farms (nearly all sections of chapter 234); Grain, General Provisions (all sections of chapter 235); and Grain Banks (all sections of chapter 236).
 - Authorize counties to issue emergency seed and feed loans to farmers on certain specified terms (all sections of chapter 395).
 - Constitute MDA-issued rules for the following areas:
 - § Regulation of wild nursery stock (part 1505.0780) and balled and burlapped nursery stock (part 1505.0810).
 - § Grain Standards Testing (all sections of chapter 1511)
 - § Regulating, bonding, and licensing of grain buyers and grain storers (parts 1562.0100 (most subparts), 1562.0200, 1562.0400, 1562.0700, 1562.0900, 1562.1300, and 1562.1800).

Article 2: Food Safety

Overview

This article would modify the food safety laws administered by MDA. These sections would consolidate existing definitions and enforcement statutes into a new chapter 34A. The sunset date for an existing food safety task force would be extended.

- 1 **Criminal penalties.** Modifies MDA's general criminal and administrative penalty powers to remove references to violations of the following chapters of law - 28A (Licensing Food Handlers), 29 (Poultry; Eggs), 31 (Food), 31A (Meat and Poultry Inspection), and 34 (Nonalcoholic Beverages). The remaining sections covered under this section of law are chapters 25 (Commercial Feed) and 31B (Packers and Stockyards).
- 2 **Administrative penalties and enforcement.** Similar to section 1, this section modifies MDA's general administrative penalty and enforcement powers to remove references to violations of the following chapters of law - 28A (Licensing Food Handlers), 29 (Poultry; Eggs), 31 (Food), 31A (Meat and Poultry Inspection), and 34 (Nonalcoholic Beverages). The remaining sections covered under this section of law are chapters 25 (Commercial Feed), 31B (Packers and Stockyards), and 32 (Dairy Products).
- 3 **Label.** Synchronizes the definition of "label" in chapter 25 (Commercial Feed) with the definition in a new chapter 34A proposed in this article.
- 4 **Labeling.** Synchronizes the definition of "labeling" in chapter 25 (Commercial Feed) with the definition in a new chapter 34A proposed in this article.
- 5 **Misbranding.** Synchronizes the definition of "misbranded" in chapter 25 (Commercial Feed) with the definition in a new chapter 34A proposed in this article.
- 6 **Adulteration.** Synchronizes the definition of "adulterated" feed under chapter 25 (Commercial Feed) with the definition in a new chapter 34A proposed in this article.
- 7 **Person.** Synchronizes the definition of "person" in chapter 28A (Licensing Food Handlers) with the definition in a new chapter 34A proposed in this article.
- 8 **Food.** Synchronizes the definitions of "food," "nonperishable food," "frozen food," "perishable food," and "readily perishable food" in chapter 28A (Licensing Food Handlers) with the definition in a new chapter 34A proposed in this article.
- 9 **Sell; sale.** Synchronizes the definitions of "sell" and "sale" in chapter 28A (Licensing Food Handlers) with the definition in a new chapter 34A proposed in this article.
- 10 **Expiration.** Extends the expiration date for the Food Safety and Defense Task Force established in 2007 by five years, from June 30, 2012 to June 30, 2017.
- 11 **Person.** Synchronizes the definition of "person" in chapter 31 (Food) with the definition in a new chapter 34A proposed in this article.
- 12 **Food.** Synchronizes the definition of "food" in chapter 31 (Food) with the definition in a new chapter 34A proposed in this article.
- 13 **Sell and sale.** Synchronizes the definitions of "sell" and "sale" in chapter 31 (Food) with the definition in a new chapter 34A proposed in this article.
- 14 **Label.** Synchronizes the definition of "label" in chapter 31 (Food) with the definition in a new

chapter 34A proposed in this article.

- 15 **Labeling.** Synchronizes the definition of "labeling" in chapter 31 (Food) with the definition in a new chapter 34A proposed in this article.
- 16 **Pesticide.** Synchronizes the definition of "pesticide" in chapter 31 (Food) with the existing definition in chapter 18B (Pesticide Control).
- 17 **Food adulteration.** Synchronizes the definition of "adulterated" food in chapter 31 (Food) with the definition in a new chapter 34A proposed in this article.
- 18 **Food misbranding.** Synchronizes the definition of "misbranded" food in chapter 31 (Food) with the definition in a new chapter 34A proposed in this article.
- 19 **Adulterated.** Synchronizes the definition of "adulterated" food in chapter 31A (Meat and Poultry Inspection) with the definition in a new chapter 34A proposed in this article.
- 20 **Misbranded.** Synchronizes the definition of "misbranded" food in chapter 31A (Meat and Poultry Inspection) with the definition in a new chapter 34A proposed in this article.
- 21 **Label.** Synchronizes the definition of "label" in chapter 31A (Meat and Poultry Inspection) with the definition in a new chapter 34A proposed in this article.
- 22 **Labeling.** Synchronizes the definition of "labeling" in chapter 31A (Meat and Poultry Inspection) with the definition in a new chapter 34A proposed in this article.
- 23 **Detention of animals and products.** Aligns a section on MDA's authority to seize or detain a food animal/carcass, meat or a meat product that is adulterated/misbranded/uninspected with similar seizure authority provided in a new chapter 34A proposed in this article.
- 24 **Adulterated.** Synchronizes the definition of "adulterated" food in chapter 32 (Dairy Products) with the definition in a new chapter 34A proposed in this article.
- 25 **Misbranded.** Synchronizes the definitions of "misbranding" and "misbranded" in chapter 32 (Dairy Products) with the definition in a new chapter 34A proposed in this article.
- 26 **Definitions.** Sections 26 to 39 propose a new chapter of state food safety law. This chapter would include centralized food safety definitions and procedures to which other MDA food chapters would point. This section contains many definitions that establish the scope of MDA's food oversight duties. In addition, exiting definitions from the following chapters would apply to this new chapter 34A: 28 (Cold Storage), 28A (Licensing Food Handlers), 29 (Poultry, Eggs), 30 (Potatoes, Wild Rice, Apples), 31 (Food), 31A (Meat and Poultry Inspections), 32 (Dairy Products), and 34 (Nonalcoholic Beverages).
- 27 **Exclusions.** Exempts listed items from the definition of "perishable food," "readily perishable food," and "frozen food."
- 28 **Adulteration.** Defines adulterated-or prohibited-food and commercial feed for the purposes of state food safety laws.
- 29 **Misbranding.** Defines misbranded-or prohibited-food for the purposes of state food safety laws.
- 30 **Applicability to chapters 25 and 32.** States that the enforcement provisions in this new food safety chapter do not apply to violations of chapters 25 (Commercial Feed) or 32 (Dairy Products).
- 31 **Enforcement.** Provides MDA centralized enforcement powers to enforce several named food safety chapters/laws. MDA could: inspect food premises, require information, inspect and copy relevant

papers, take depositions, administer oaths, issue subpoenas, require law enforcement officers to take enforcement actions related to MDA's food safety regulations, waive penalties for minor violations if in the public interest, etc.

- 32 False statement or record.** Prohibits making a false statement or providing false records to MDA's food safety personnel.
- 33 Administrative actions.** Authorizes MDA to enforce food safety laws through specified administrative actions such as warnings, cease and desist orders, forced sales, seizure, administrative penalty, etc. Authorizes MDA to revoke, suspend, or refuse to issue food safety licenses if a person violates or has violated this new chapter within the last three years. Allows a person to appeal MDA administrative actions in a contested case hearing before the Office of Administrative Hearings.
- 34 Administrative penalties.** Authorizes MDA to assess food-safety administrative penalties commensurate with the severity of the violation and other named factors. Caps administrative penalties at \$1,500/day for each violation. Requires MDA to notify a person that they have 20 days to appeal the penalty to MDA.
- 35 Appeal of administrative action or penalty.** Specifies how a person may appeal an MDA food-safety administrative action or penalty.
- 36 Criminal penalties.** Provides that violations of food safety laws are a misdemeanor or gross misdemeanor crime, depending upon the nature of the violation.
- 37 Embargo, seizure, and condemnation.** Authorizes MDA to tag any food, animal, or consumer commodity that MDA believes is being distributed in violation of this new chapter or any rules issued pursuant to the chapter. Authorizes MDA to seize a carcass, meat or meat product, or infirm animal transported in intrastate commerce or held for sale in this state after transportation in intrastate commerce. Requires MDA to condemn or destroy any perishable food that is filthy, decomposed, putrid, poisonous, etc. and prohibits a resulting lawsuit against MDA. Authorizes MDA to embargo a geographic area in response to a national security or peacetime emergency declared by the governor.
- 38 Powers of the commissioner.** Allows MDA, in performance of its food safety duties, to gather information for evidence. A noncompliant person would be guilty of a misdemeanor.
- 39 Repealer.** Repeals laws that do the following:
- Authorize MDA to inspect premises and request information in order to investigate alleged food safety violations (§ 17.984).
 - Providing criminal penalties for violations of the state's Cold Storage laws (§ 28.15).
 - Provide penalties and MDA enforcement authority pertaining to MDA's food handler licensing duties (§§ 28A.12 and 28A.13).
 - Providing criminal penalties for violations of the state's Poultry and Eggs laws (§ 29.28).
 - Providing penalties and MDA enforcement authority pertaining to the state's general Food laws (§§31.031; 31.041; 31.05; 31.14; 31.393; 31.58; 31.592; 31.621, subdivision 5; 31.631, subdivision 4; 31.633, subdivision 2; 31.681; 31.74, subdivision 3; and 31.91).
 - Providing penalties and MDA enforcement authority pertaining to the state's Meat and Poultry Inspection laws (§§ 31A.24 and 31A.26).
 - Providing penalties and MDA enforcement authority pertaining to the state's Dairy Products laws (§§ 32.078; 32.475, subdivision 5; and 32.90).

- Providing penalties for violations of the state's Nonalcoholic Beverages laws (§ 34.113)
- Constitute MDA-issued rules for the following areas:
 - § The definition of "person" for the purposes of MDA's meat inspection regulations (1540.0010, subpart 26).
 - § The definitions of "food," "frozen food," "perishable food," "readily perishable food," and exempt products related to MDA's food delivery company regulations (1550.0930, subparts 3, 4, 5, 6, and 7).
 - § The definitions of "label," "labeling," "perishable food," and "person" related to MDA's food quality assurance dating regulations (1550.1040, subparts 3, 4, 5, and 6).
 - § The definitions of "misbranded or misbranding" and "perishable, readily perishable food" related to MDA's bakery regulations (1550.1260, subparts 6 and 7).